THE HONBLE SRI JUSTICE GODA RAGHURAM

W.P.No.14558 of 2006

Date 28.08.2006

Between:
Mareddy Venkata Subbamma.

..... PETITIONER

AND

The District Collector, Prakasam district, Ongole & others.

.....RESPONDENTS

THE HONBLE SRI JUSTICE GODA RAGHURAM

W.P.No.14558 of 2006

O R D E R:

Petitioners are aggrieved that they are liable to be dispossessed from the agricultural lands in an extent of Ac.6-34 cents in Sy.No.114 of Manikeswaram village, Addanki Mandal, Prakasam District on account of submersion of these and other lands consequent on the execution of Kandula Obula Reddy reservoir project on Gundlakamma river in the said village, and that the dispossession is without following the due process of law under the provisions of the Land Acquisition Act, 1894 (for short 'the Act').

Petitioners assert that an extent of Ac.6-34 cents was initially a patta land belonging to Mr. Manda Subbadu who mortgaged this property in favour of the petitioners' grandfather. Thereafter, the property was purchased by the petitioners grandfather under a registered sale deed dated
25-04-1935. The petitioners' grandfather by registered will dated 25-05-1936 created a life interest in all his properties in favour of petitioners mother Smt. Parvatamma. Thereafter, the remainder devolved upon the male children. Eventually after the expiry of the petitioners' father, the petitioners and another brother and their mother partitioned their properties in 1970 whereat their mother, petitioners and another brother obtained one share each in the property. According to the petitioners, the extent of Ac.6-34 cents fell to the share of one of their brother Ramachandra Reddy, husband of the first petitioner, and another share in favour of the second petitioner. Petitioners also assert to have filed a declaration under

the A.P.Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 declaring these lands as within their holding. They also claim to have been issued pattadar passbooks by the revenue authorities. Petitioners claim continuous and uninterrupted possession of properties since 1921 and also possession to the knowledge and notice of all governmental authorities. As the lands of the petitioners are likely to be submerged and the respondents issued the notification excluding these lands and without showing the petitioners as owners, the writ petition is filed seeking appropriate relief. The petitioners sent up a representation urging the same grievance as set out in the writ petition.

In response thereto by the endorsement dated 29-06-2006, the second respondent, responding to the petitioners' representation stated that Sy.No.114 of Manikeswaram village is registered as Assessed Waste Dry land in the revised survey register and is not specified as Settled Patta Land. According to the second respondent, this property is therefore treated as Government land which might have been assigned to the petitioners subsequently, and therefore these lands are not included for acquisition in the draft notification. Second respondent also states that as regards assigned lands, the original assignees or their legal heirs, who are in possession of the lands at the time of acquisition would be eligible for payment of exgratia on par with the owners of other lands as per the G.O.Ms.No.135, Irrigation & C.A.D. (Projects Wing – R & R –A2) Dept., dated 30-11-2004, read with G.O.Ms.No.1307 Revenue (Assign – I) Dept., dated 23-12-1993. Purchasers of assigned lands would not however be so eligible as such purchases are prohibited under the provisions of the A.P. Assigned Lands (Prohibition of Transfer) Act 9 of 1977. Second respondent further asserts that this aspect would be examined at the

later stage, of award enquiry and not at the time of publication of the draft notification.

In the light of what is stated in the endorsement of the second respondent dated 29-06-2006, there is apparently a dispute as to whether the petitioners are owners of the lands in question and therefore entitled to compensation for their dispossession caused by the reservoir. While the petitioners claim title to the lands on the basis of several facts stated in the writ petition, the respondents assert that the lands in Sy.No.114 including the lands claimed by the petitioners are government lands and therefore, the petitioners are not entitled to compensation. The draft notification issued under Section 4(1) of the Act reflects the Government's position in the matter as regards ownership of the land in question. If the petitioners desire to assert their title to the land in view of the denial of such title by the endorsement dated 29-06-2006 of the second respondent, the petitioners are at liberty to seek declaratory relief before a civil Court of competent jurisdiction. Such disputes or questions of title ought not be normally considered by this Court under Article 226 of the Constitution of India.

Sri M.Ravindranath Reddy, learned counsel for the petitioners, states that a mere specification of lands in a revised survey register would not *ipso facto* constitute conclusive evidence of the ownership of the Government of these lands and as the wealth of the available documents attest to the petitioners' claim of title to the lands, the petitioners should be entitled to the relief in this regard. This is an invitation to this Court to adjudicate a title dispute.

Whether this Court should consider disputed questions of title or these should be relegated to a civil Court of competent jurisdiction does not depend on the strength of a claim to the title to a property. If the petitioners have an eminently arguable case to establish their

case, so be it. The forum of choice is however the civil Court of competent jurisdiction.

On the aforesaid analysis, the writ petition is dismissed. Petitioners are at liberty to prosecute their appropriate remedies before the appropriate forum. Nothing in this order shall be construed as an expression by this Court on the merits of the rival claims to the title to the property. No order as to costs.

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28-08-2006

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